

III. EXAMPLES

LAND

Example 1

ARTICLE VII - LAND

All lands of the Kaibab Reservation and all lands which may hereafter be acquired by the Kaibab Band of Paiute Indians or by the United States in trust for the Kaibab Band of Paiute Indians, shall be held as tribal land and no part of such land shall be mortgaged or sold. Tribal land shall not be allotted to individual Indians, but may be assigned to members of the Tribe, or leased, or otherwise used by the Band in accordance with such ordinances and resolutions as may be adopted by the Tribal Council.

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Example 2

ARTICLE VII - LAND ASSIGNMENT AND LAND LEASING

SECTION 1. Obtaining Use of Land. When any qualified member of the Pueblo of Laguna desires a piece of unoccupied Pueblo land, he shall select his land and make his application to the mayordomo of the village, who shall take the matter up with the village officer who in turn shall discuss the matter with the Council. If the application is approved by the Council the officer and the mayordomo shall stake out the boundaries for the applicant and shall give him a written assignment describing the land and stating the terms or conditions on which it is assigned. A copy of such assignment shall be retained for the Pueblo records. Assignments may be made conditional on the assignee's making certain improvements within a stated period or on other conditions. The assignee shall then have three years within which to improve and make use of his assignment. Upon failure to improve or make use of the assignment within the three-year period following the approval thereof, or upon failure to make use of the assignment for any period of three successive years, the Council may dispossess the applicant. The Council may otherwise dispossess the applicant in accordance with, or for, violation of this Constitution or the laws of the Pueblo, or for violation of conditions. If at any time an assignment has been abandoned, it may be cancelled by the Council. The Council shall have the duty to provide a system for the recording of all land assignments, and shall have power to regulate the granting of such assignments.

SECTION 2. Qualifications. The Council shall be the sole judge of the qualifications of any member to receive the use of any Pueblo lands, and to continue in possession of such lands.

SECTION 3. Acreage Limitations. No member shall be entitled to hold an assignment or assignments of the Pueblo lands in excess of an acreage limitation fixed by the Council.

SECTION 4. Eminent Domain. When in the public interest, and upon payment of just compensation for the improvements placed thereon, the Council shall have the authority to dispossess any member from his assignment, or a portion thereof. In the event of disagreement between the member and the Council as to the value of the improvements, the matter shall be decided finally by the Pueblo Court.

SECTION 5. Full Possession. The right of full possession shall be guaranteed to any member of the Pueblo holding lands the use of which has been assigned to him by the officers for cultivation or other purpose. The Council shall have power to regulate, limit or prohibit the transfer, during lifetime or on death, and the renting or leasing of assigned lands. No member holding said lands shall rent or lease same to any person not a member of the Pueblo without first getting authority from the Council. In no event shall any member be authorized to lease or rent the use of his land to a person not a member of the Pueblo if any member of the Pueblo needs such land. The Council shall be the judge of whether any member of the Pueblo needs such land. No assignments shall be cancelled or terminated except under provisions of Section 4 of this Article or for cause and upon payment of just compensation of any improvements made on the land.

SECTION 6. Non-Indians. Non-Indians shall not be entitled to receive any Pueblo benefits and shall not be permitted to hold assignments of land or the use thereof, except as provided in Section 7 of this Article and except that the surviving non-Indian spouse of a member may continue to live on the land assigned to the member under terms and conditions prescribed by the Council.

SECTION 7. Leases. No lease of land shall be given to any company, or corporation or to any non-member of the Laguna Pueblo who wishes to do business of any nature except by the decisions of the Pueblo Council assembled for the purpose. Then the Council shall have the power to execute such lease, and there must be a written agreement signed by the Governor, two members of the Council and the lessee; otherwise, such lease shall be null and void.

SECTION 8. Minerals. All minerals, in, on or under any lands under the jurisdiction of the Pueblo are and shall continue to remain the property of the Pueblo of Laguna and not of the person having the right to use or hold the surface of the land in, on or under which such minerals may exist or be found. The Council shall have the power to authorize removal of any such minerals with the approval of the Secretary of the Interior so long as his approval is required by law. All proceeds derived from the removal of any minerals shall be placed in the general Pueblo treasury to be expended as authorized by this revised Constitution. Any

mining lease shall provide that the lessee shall compensate the Pueblo for any injury to the improvement or occupancy of any lands assigned to individuals under this Article caused by the use of the surface by the lessee. Compensation so received shall be paid over to such individual so injured.

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Example 3

ARTICLE VIII - LAND

[Former Sections 1, 2, 3 and 4 repealed by Amendment No. III effective June 19, 1962.]

SECTION 1. In any assignment of tribal lands, preference shall be given to heads of families which are entirely landless. Assignments under this section shall be known as "home assignments" and shall be granted for the purpose of giving opportunity to homeless Indians for establishing a home. Any assignment under this provision shall not exceed ten (10) acres in area.

SECTION 2. If any person holding a "home assignment" of land shall for a period of six months fail to use the land so assigned or shall use the land for any unlawful purpose, his assignment may be cancelled by the tribal council after due notice and opportunity to be heard. Such land may then be available for reassignment.

Upon the death of any Indian holding a "home assignment" his heirs or other individuals designated by him by will or written request shall have preference in the reassignment of the land, provided such persons are eligible to receive a "home assignment."

SECTION 3. Any member of the Rosebud Tribe who owns an allotment of land or any share in heirship land or any deeded land, may, with the approval of the Secretary of the Interior, voluntarily transfer his interest in such land, including or excluding mineral rights therein, to the tribe and receive therefor an assignment in the same land or other land of equal value or he may receive a proportionate share in a unit of grazing land.

Assignments made under this section shall be known as "exchange assignments."

SECTION 4. A member receiving an "exchange assignment" shall receive the right to lease such assigned lands or interests under the same terms as governing the leasing of allotments.

SECTION 5. Upon the death of a holder of an "exchange assignment", such lands shall be reassigned by the tribal council to his heirs or devisees, subject to the following conditions:

(a) Such lands may not be reassigned to any heir or devisee who is not a member of the Rosebud Tribe, except that a life assignment may be made to the surviving spouse or child of the holder of such assignment.

(b) Such lands may not be reassigned to any heir or devisee who already holds more than 1920 acres of land on the reservation. [Amendment No. IV, effective June 19, 1962.]

(c) Such lands may not be subdivided into units too small for practical use. No area of grazing land shall be subdivided into units smaller than one hundred sixty (160) acres. No area of agricultural land shall be subdivided into smaller units than two and one-half (2-1/2) acres. When interests in assignments shall involve smaller areas than the amounts herein set out, the tribal council may issue to such heir or devisee a proportionate share in other grazing units or other interests in land of equal value.

(d) If there are no eligible heirs or devisees of the decedent, the land shall be eligible for reassignment the same as other tribal lands.

SECTION 6. Improvements of any character made upon assigned land may be willed and inherited by members of the Rosebud Tribe. When improvements are made possible of fair division, the tribal council shall dispose of them under such regulations as it may provide. No permanent improvements may be removed from any tribal or assigned land without the consent of the tribal council.

SECTION 7. No member of the Rosebud Tribe may use or occupy tribal land except under assignment or lease.

SECTION 8. Unassigned land shall be managed by the tribal council for the benefit of the members of the entire tribe.

SECTION 9. Tribal funds may be used, with the consent of the Secretary of the Interior, to acquire land for the Rosebud Tribe.

SECTION 10. Applications for assignments of lands shall be made in writing. Such applications shall be submitted to the council at regular or special sessions. The application will be placed in the hands of a proper committee who will call the matter up for action at the next regular meeting of the council. Any member of the tribe may object in writing, to a proposed assignment. In the event of objection, the chairman of the council shall set a date for a hearing, advising both the applicant and the objector. The action of the council shall be final.

The secretary of the council shall furnish the superintendent or other officer in charge of the agency a complete record of all action taken by the council on applications for assignment

of land, and a complete record of assignments shall be kept in the agency office and shall be open for inspection by members of the tribe.

The council shall draw up one or more forms for standard and exchange assignments, which shall be subject to the approval of the Secretary of the Interior.

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Example 4

ARTICLE VIII - LAND

SECTION 1. Allotted land, including heirship lands, within the Bad River Reservation shall continue to be held as heretofore by their present owners. It is recognized that under existing law such lands may be condemned for public purposes, such as roads, public buildings, or other public improvements, upon payment of adequate compensation. It is further recognized that under existing law such lands may be inherited by the heirs of the present owners, whether or not they are members of the Bad River Band of the Lake Superior Tribe of Chippewa Indians. Likewise, it is recognized that under existing law the Secretary of the Interior may, in his discretion, remove restrictions upon such land, upon application by the Indian owner, whereupon the land will become subject to State tax and may then be mortgaged and sold. The right of the individual Indian to hold or to dispose of his land, as under existing law, shall not be abrogated by anything contained in this Constitution, but the owner of restricted land may, with the approval of the Secretary of the Interior, voluntarily convey his land to the Bad River Band of the Lake Superior Tribe of Chippewa Indians either in exchange for money payment or in exchange for an assignment covering the same land or other land, as hereinafter provided.

SECTION 2. Tribal lands of the Bad River Band of the Lake Superior Tribe of Chippewa Indians and all lands which may hereinafter be acquired by the Bad River Band or by the United States in trust for the Bad River Band shall be held as tribal lands, and no part of such lands shall be mortgaged or sold.

SECTION 3. Tribal lands shall not be allotted to individual Indians, but such tribal lands as are not required for school, agency, or other administrative use may be assigned by the Tribal Council to members of the Bad River Band of the Lake Superior Tribe of Chippewa Indians or may be leased or otherwise used by the Band as hereinafter provided.

SECTION 4. Tribal lands may be leased by the Tribal Council with the approval of the Secretary of the Interior in accor-

dance with law. Preference shall be given, first, to cooperative associations of members of the Band, and, secondly, to individual Indians who are members of the Band. No lease of tribal lands to a nonmember shall be made by the Tribal Council unless it shall appear that no cooperative association of members or individual member of the Band is able and willing to use the land and to pay a reasonable fee for such use.

SECTION 5. In any assignment of tribal lands which are now owned by the Band, or which may hereafter be acquired for the Band by the United States or purchased by the Band out of tribal funds, or which may be designated for the use of the Band, preference shall be given, first to heads of families which are entirely landless, and second, to heads of families which have no allotted lands or interests in allotted lands, but shall have already received assignments consisting of less than an economic unit of agricultural land or other land or interests in land of equal value, such economic unit to be determined by the Tribal Council by ordinances. Such assignments shall be known as "standard assignments."

No member of the Band who may hereafter have the restrictions upon his land removed, and whose land may thereafter be alienated, except to the Band, shall be entitled to receive an assignment of land as a landless Indian.

The Tribal Council may, if it sees fit, charge a fee on approval of a standard assignment.

SECTION 6. If any person holding a standard assignment of land shall, for a period of 1 year, fail to use the lands so assigned, or shall use the land for any unlawful purpose, his assignment may be cancelled by the Tribal Council after due notice and opportunity to be heard. Such land may then be available for reassignment.

Upon the death of any Indian holding a standard assignment, his heirs or other individuals by him in writing have preference in the reassignment of the land, provided such persons are eligible to receive a standard assignment.

SECTION 7. Any member of the Bad River Band who owns an allotment of land or any share in heirship land or any deeded land, may with the approval of the Secretary of the Interior, voluntarily transfer his interest in such land, to the Band and receive therefor an assignment in the same land or other land of equal value or he may receive a proportionate share in a unit of agricultural or other lands.

Assignments made under this section shall be known as "exchange assignments."

SECTION 8. Exchange assignments may be used by the assignee or leased by him to cooperative associations of members of the Band, to individual members of the Band, or if no individual mem-

ber or cooperative association of members is able and willing to rent the land at a reasonable fee, such assignments may be leased to non-Indians, in the same manner as allotted lands.

SECTION 9. Upon the death of a holder of an exchange assignment such lands shall be reassigned by the Tribal Council to his heirs or devisees, subject to the following conditions:

(a) Such lands may not be reassigned to any heir or devisee who is not a member of the Bad River Band, except that a life assignment may be made to the surviving spouse or child of the holder of such assignment.

(b) Such lands may not be reassigned to any heir or devisee who already owns or holds more than an economic unit of land.

(c) Such lands may not be subdivided among heirs or devisees into units too small for convenient management, and no assignment shall be subdivided into units smaller than 2-1/2 acres, except that land used for buildings or other improvements may be divided to suit the convenience of the parties. Where it is impossible to divide the land properly among the eligible heirs or devisees, the Tribal Council may issue to the eligible heirs or devisees interests in tribal lands or property of the same value as the assignment of the decedent.

(d) If there are no eligible heirs or devisees of the decedent, the land shall be eligible for assignment the same as other tribal lands.

SECTION 10. Improvements of any character made upon assigned land may be willed to and inherited by members of the Bad River Band. When improvements are not possible of fair division, the Tribal Council shall dispose of them under such regulations as it may provide, for the benefit of such heirs. No permanent improvements may be removed from any tribal or assigned land without the consent of the Tribal Council.

SECTION 11. No member of the Bad River Band may use or occupy tribal lands except under an assignment or lease.

SECTION 12. Tribal land which is not assigned, including tribal timber reserves, shall be managed by the Tribal Council for the benefit of the entire Band, and any cash income derived from such land shall accrue to the benefit of the Band as a whole. All action of the Tribal Council with respect to such lands shall be in conformity with departmental regulations for protection of Indian range and timber resources authorized by Section 6 of the Act of June 18, 1934.

SECTION 13. Tribal funds may be used, with the consent of the Secretary of the Interior, to acquire land for the Bad River Band.

SECTION 14. Applications for assignment of land shall be made in writing. Such applications shall be submitted to the Tribal Council at regular or special sessions. The application shall be placed in the hands of a proper committee who shall call the matter up for action at the next regular meeting of the Tribal

Council. Any member of the Band may object in writing to a proposed assignment. In the event of objection, the Chairman of the Tribal Council shall set a date for hearing, advising both the applicant and the objector. The action of the Council shall be final.

The Secretary of the Council shall furnish the Superintendent or other officer in charge of the agency a complete record of all action taken by the Tribal Council on applications for assignment of land, and a complete record of assignments shall be kept in the agency office and shall be open for inspection by members of the Band.

The Tribal Council shall draw up one or more forms for standard and exchange assignments, which shall be subject to the approval of the Secretary of the Interior.

Document 1.

Example 5

ARTICLE VIII - LAND

SECTION 1. Allotted lands. - Allotted lands, including heirship lands, within the Cheyenne River Reservation shall continue to be held as heretofore by their present owners. It is recognized that under existing law such lands may be condemned for public purposes, such as roads, public buildings, or other public improvements, upon payment of adequate compensation, by any agency of the State of South Dakota or of the Federal Government, or by the tribe itself. It is further recognized that under existing law such lands may be inherited by the heirs of the present owner, whether or not they are members of the Cheyenne River Sioux Tribe. Likewise it is recognized that under existing law the Secretary of the Interior may, in his discretion, remove restrictions upon such land, upon application by the Indian owner, whereupon the land will become subject to State taxes and may then be mortgaged or sold.

The right of the individual Indian to hold or to part with his land, as under existing law, shall not be abrogated by anything contained in this constitution, but the owner of restricted land may, with the approval of the Secretary of the Interior, voluntarily convey his land to the Cheyenne River Sioux Tribe either in exchange for a money payment or in exchange for an assignment covering the same land or other land, as hereinafter provided.

SEC. 2. Tribal lands. - The unallotted lands of the Cheyenne River Reservation and all lands which may hereafter be acquired by the Cheyenne River Sioux Tribe or by the United States in trust for the Cheyenne River Sioux Tribe shall be held as tribal lands, and no part of such lands shall be sold, except those tribal lands located outside of the Cheyenne River Reservation boundaries, and outside of

the Consolidation Area boundary lines established as of the date of the approval of Public Law 88-418 (August 11, 1964), and set out in tribal council action by Resolution No. 92-64 (September 2, 1964). Tribal lands shall not be mortgaged, nor allotted to individual Indians, but may be assigned to members of the Cheyenne River Sioux Tribe or leased or otherwise used by the tribe, as hereinafter provided.

SEC. 3. Leasing of tribal lands. - Tribal lands may be leased by the tribal council, with the approval of the Secretary of the Interior for public, religious, educational, recreational, residential, or business purposes for a period not to exceed 25 years and may include a provision authorizing a renewal or an extension for one additional term of not to exceed 25 years, but no one lease or contract shall be for a tract in excess of 160 acres.

Grazing permits covering tribal land may be issued by the tribal council, with the approval of the Secretary of the Interior. Such grazing permits shall not exceed a term of five years.

In the lasting of tribal lands and the issuance of grazing permits preference shall be given first to Indian cooperative associations, and, secondly, to individual Indians, who are members of the Cheyenne River Sioux Tribe. No lease of tribal land to a non-member or the issuance of a grazing permit to a non-member shall be made by the tribal council unless it shall appear that no Indian cooperative association or individual member of the tribe is able and willing to use the land and to pay a reasonable fee of such use.

SEC. 4. Grant of "standard" assignments. - In any assignment of tribal lands which are now owned by the tribe or which hereafter may be acquired for the tribe by the United States or purchased by the tribe out of tribal funds, preference shall be given, first to heads of families which are entirely landless, and, secondly, to heads of families which have no allotted lands or interests in allotted lands but shall have already received assignments consisting of less than an economic unit of agricultural land, or other land or interests in land of equal value, such unit to be determined from time to time by the tribal council.

The tribal council may, if it sees fit, charge a fee of not to exceed \$25 on approval of an assignment made under this section.

Assignments made under this section shall be for the primary purpose of establishing homes for landless Indians, and shall be known as "standard" assignments.

SEC. 5. Tenure of "standard" assignments. - If any member of the tribe holding a "standard" assignment of land shall, for a period of two (2) years, fail to use the land so assigned, his assignment may be cancelled by the tribal council after due notice and an opportunity to be heard, and the said land, may be reassigned in accordance with the provisions of section 4 of this article.

Upon the death of any Indian holding a "standard" assignment his heirs or other individuals designated by him, by will or by

written request shall have a preference in the reassignment of the land, provided such persons are members of the Cheyenne River Sioux Tribe who would be eligible to receive a "standard" assignment.

SEC. 6. Grant of "exchange" assignment. - Any member of the tribe who owns an allotment or any share of heirship land may voluntarily transfer his interest in such land in exchange for any assignment to the same land or other land of equal value. If the assignee prefers, he may receive, in lieu of a specific tract of land, a proportionate share in a larger grazing unit.

Assignments made under this section shall be known as "exchange assignments."

SEC. 7. Leasing of "exchange" assignments. - "Exchange" assignments may be used by the assignee or leased by him to Indian cooperative associations, to individual members of the tribe, or, if no individual Indian or Indian cooperative association is able and willing to rent the land at a reasonable fee, such assignments may be leased to non-Indians, in the same manner as allotted lands.

SEC. 8. Inheritance of "exchange" assignments. - Upon the death of the holder of any "exchange" assignment, such land shall be reassigned by the tribal council to his heirs or devisees, subject to the following conditions:

(a) Such lands may not be reassigned to any heirs or devisees who are not members of the Cheyenne River Sioux Tribe, except that a life assignment may be made to the surviving widower or widow of the holder of assignment.

(b) Such lands may not be reassigned to any heirs or devisees who already hold more than a certain number of acres of grazing land, or other land or interests in land of equal value, either under allotment or under assignment, such amounts to be determined from time to time by the council.

(c) Such lands may not be subdivided among heirs or devisees into units too small for convenient management. No area of grazing land shall be subdivided into units smaller than sixty (60) acres, and no area of agricultural land shall be subdivided into units smaller than two and one-half acres, except that land used for buildings or other improvements may be divided to suit the conveniences of the parties. Where it is impossible to divide the land properly among the eligible heirs or devisees, the tribal council shall issue to such heirs or devisees grazing permits or other interests in tribal lands of the same value as the assignments of the decedent.

(d) If there are no eligible heirs or devisees of the decedent, the land shall be eligible for reassignment in accordance with the provisions of section 4 of this article.

SEC. 9. Inheritance of improvements. - Improvements of any character made upon assigned land may be bequeathed to and inherited by members of the Cheyenne River Sioux Tribe or otherwise disposed

of under such regulations as the tribal council shall provide. No permanent improvements shall be removed from the land without the consent of the tribal council.

SEC. 10. Exchange of assignments. - Assignments may be exchanged between members of the Cheyenne River Sioux Tribe by common consent in such manner as the tribal council shall designate.

SEC. 11. Use of unassigned tribal land. - Tribal land which is not assigned, including tribal timber reserves, shall be managed by the tribal council for the benefit of the members of the entire tribe, and any cash income derived from such land shall accrue to the benefit of the tribe as a whole.

SEC. 12. Purchase of land by the tribe. - Tribal funds may be used with the consent of the Secretary of the Interior, to acquire land, under the following conditions:

(a) Land within the Cheyenne River Reservation or adjacent to the boundaries thereof which is now in Indian ownership may be purchased by or for the Cheyenne River Tribe.

(b) Restricted land, which is in heirship status at the time of the adoption and approval of this constitution, may be purchased by or for the tribe, with the consent of all the adult heirs, and the legal guardians of minor heirs, payment therefor to be made as may be agreed upon.

(c) Land owned by any member of the tribe who is over the age of sixty (60) years, or who is physically incapacitated, may be transferred by its owner to the tribe in exchange for a pension of not more than twice the usual rental value of the land for the life of the pensioner, to be paid out of available tribal funds.

(d) Land in excess of 320 acres owned by any member of the tribe may be purchased by the tribe, with the consent of the owner, payments to be made under such term as may be agreed upon.

(e) Land owned by any member of the tribe who desires to leave the reservation permanently may be purchased by the tribe, under such terms as may be agreed upon.

SEC. 13. Method of making assignments. - Applications for assignment shall be filed with the secretary of the council and shall be in writing, setting forth the name of the person or persons applying for the land and as accurate a description of the land desired as the circumstances will permit. Notices of all applications received by the secretary shall be posted by him in the agency office and in at least three conspicuous places in the district in which the land is located for not less than twenty (20) days before action is taken by the council. Any member of the tribe wishing to oppose the granting of an assignment shall do so in writing, setting forth his objections, to be filed with the secretary of the council, and may if he so desires appear before the council to present evidence. The secretary of the council shall furnish the superintendent or other officers in charge of the agency, a complete record of all

action taken by the council on applications for assignment of land, and a complete record of assignments shall be kept in the agency office and shall be open for inspection by members of the tribe.

The council shall draw up one or more forms for standard and exchange assignments, which shall be subject to the approval of the Secretary of the Interior.

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Example 6

ARTICLE VII- LAND

- Section 1. The Blackfeet Tribe may enact laws regarding the use of all lands within the Blackfeet Reservation.
- Section 2. Allotted lands, including heirship lands shall continue to be held as before by their owners. The right of the individual Indian to hold or to part with his or her land as under existing laws shall not be abrogated by anything contained in this Constitution, but will be subject to the rights of the Blackfeet Tribe or individual Tribal members to have the first preference to buy such lands. It is recognized that such lands may be condemned for public purposes upon adequate compensation by the Blackfeet Tribe. It is further recognized that such allotted lands may be inherited by the heirs of the present owner only if such heirs are of Blackfeet descent.
- Section 3. (a) As of the date of this Constitution, no trust land presently held by Tribal members shall ever be devised to, sold to, given to, inherited by, or in any other manner come into the possession of any person not of Blackfeet Indian descent as long as such land remains in trust status.
- (b) As of the date of this Constitution, no other land presently held by Tribal members shall be devised to, sold to, given to or in any other manner come into the possession of any person not of Blackfeet Indian descent without the owner of such lands giving the opportunity to the Blackfeet Tribe or the members of that Tribe to meet the high bid for that land within a reasonable time.
- (c) All sales of land within the Blackfeet Reservation must be advertised in local newspapers for a period of thirty (30) days before such sale.
- Section 4. The unallotted lands of the Blackfeet Tribe and all lands hereafter acquired by the Blackfeet Tribe, or held for the use of the Blackfeet Tribe, including Tribal Timber Reserve, shall be held as Tribal lands, and no part of such lands shall ever be sold.

- (a) Only lands being purchased, or the income from such lands may be mortgaged or used as collateral for the purchase of that land.
- (b) Tribal lands may be leased but not traded. The Big Council shall make laws regulating the leasing and subleasing of Tribal lands.
- (c) The lands known as Agency Reserve lands shall return to the status of Tribal lands as of the date of this Constitution.
- (d) The Blackfeet Tribe shall urge the return of the land known as Sub-Marginal lands to the status of Tribal lands.
- (e) The Blackfeet Tribe shall urge the return to trust status of any fee patent land they now hold or may acquire in the future.

Section 6. The Blackfeet Tribe shall deposit twenty-five percent (25%) of all annual income for the purpose of purchasing land, timber rights, mineral rights and water rights within, or adjacent to the Blackfeet Reservation. This money is not to be used for administrative costs of maintaining such purchase program.

Section 7. Heirship land may not be divided into portions having a monetary value of less than \$100. The Blackfeet Tribe shall compensate those affected by this section and such portion shall become Tribal land.

Section 8. An Indian heir may gift deed, sell, trade or convey in trust his or her interest in heir ship land to another Indian heir holding interest in the same land.

Section 9. In areas set aside or zoned for homesites, any individual may apply for a twenty-five year homesite least not to exceed two and one-half (2 1/2) acres of land.

- (a) Laws regulating homesite leases may be made by the Big Council.
- (b) Leases may be transferred to another member with the approval of the Big Council or its designate.
- (c) Disputes concerning these leases shall be taken to the appropriate Court of the Blackfeet Tribe.

Section 10. As of the date of this Constitution, individuals holding standard assignments shall surrender all rights given to them regarding these assignments to the Blackfeet Tribe and shall be given the first option to lease such according to the laws regulating such leases.

Section 11. No right of way may be granted over Tribal land without the approval of the Blackfeet Tribe and no right of way shall be granted over other land on the Blackfeet Reservation without the approval of the individual land owner. If such right of way is granted over any land on the Blackfeet Reservation the land owner shall be adequately compensated for the grant of such right of way.

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Example 7

ARTICLE X - RESERVATION LAND

SECTION 1. The reservation land shall as a whole remain tribal property and shall not be divided by allotment of any parts to individuals or groups of individuals as private property that could be sold at will; but assignments of land for private use may be made by the Council in conformity with ordinances which may be adopted on this subject, provided, that the rights of all members of the tribe be not violated.

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Native American Rights Fund

MEMORANDUM

TO: The Menominee Restoration Committee

FROM: Yvonne T. Knight

DATE: October 13, 1975

RE: Advantages And Disadvantages Of Adopting A Constitution Under Section 476 Of The Indian Reorganization Act (See Attachment A) [Revision of memorandum to Constitution and Bylaws Subcommittee dated September 16, 1974 and included in Menominee Constitution Handbook as Part IV.]

I. INTRODUCTION

A. General Background of Indian Reorganization Act.

Generally, the Indian Reorganization Act (IRA) enacted in 1934 is considered to be one of those acts which signified a major reversal of government policy and approach toward Indian Affairs. Prior to the enactment of the IRA in 1934, the Bureau of Indian Affairs, through delegation of power from the Secretary of Interior, exercised almost unlimited discretion over tribal affairs, including tribal decisions. (25 U.S.C. §2; 25 C.F.R. §1). The extent of the BIA's discretionary powers over Indian tribes is indicated in the following passage from a recent law review article.

Perhaps the prime objective of the IRA, which was crucial to any effective establishment of self-government, was elimination of the "absolutist" executive discretion previously exercised by the Interior Department and the Office of Indian Affairs. During the hearings, Commissioner of Indian Affairs, John Collier, presented to the House Committee examples which revealed the vastness of this discretionary power. Not only had administrative power grown beyond control, but its exercise and the effects of its exercise also changed from year to year, depending on the attitude or whim of a given commissioner. Further, this discretionary power was also exercised by local agency superintendents, a situation that led Senator Wheeler to refer to the local agent as "a czar". So all-encompassing was this power that "the Department [had] absolute discretionary powers over all organized expressions of the Indians... [t]ribal councils exist [ed] by [the Department's] sufferance and [had] no authority except as... granted by the Department." Consequently, the IRA sought to eliminate this boundless discretion or at least place a damper on its exercise. "This bill... seeks to get away from the bureaucratic control of the Indian Department, and it seeks further to give the Indians the control of their own affairs..." ["Tribal Self-Government and the Indian

Reorganization Act of 1934," 70 Mich. L. Rev.
955, 966 (1972)].

Thus, the provisions of the IRA generally are designed to impose limitations upon the previously unfettered discretionary powers of the Secretary of Interior and the BIA. Leaving aside for the moment §476, the following are some of the areas in which the IRA limits the Secretary's powers:

- 1) 27 U.S.C. §461 of the IRA prohibits allotment. Theoretically the lands of non-IRA tribes could still be allotted. Allotment of lands of IRA tribes, however, is strictly and specifically prohibited.
- 2) §462 extends the trust period of Indian lands indefinitely. Some non-IRA tribes currently are compelled to obtain periodic executive orders extending the trust period.
- 3) §464 prohibits the "sale, devise, gift, exchange, or other transfer of restricted Indian lands...." Again, theoretically, restricted lands of non-IRA tribes could be sold, devised, etc. by the Secretary.
- 4) §465 provides tax exempt status for lands acquired under the Act. Non-IRA tribes must obtain tax exemption through special legislation for any lands subsequently acquired.
- 5) In addition to these limitations on the Secretary's powers, a tribe organized under the IRA has access to certain funds and programs not otherwise available.

B. Application to the Menominee Tribe.

The Indian Reorganization Act (IRA) is codified in the United States Code in Title 25, Sections 461 through 486. 25 U.S.C. §478 provides that the IRA "shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of Interior, shall vote against its application." The Secretary was given one year, from June 18, 1934, to hold elections on the various reservations in which Indian people could vote upon the applicability of the IRA to their reservation. Thus, within one year after the passage of the IRA, tribal elections were held and the IRA was either accepted or rejected. The Menominee Tribe voted to accept the IRA and §3 of the Menominee Restoration Act specifically states that the IRA is applicable to the tribe.

It is important to note here, however, that certain provisions of the IRA, although available for the use of a tribe which has accepted the act, are made expressly optional. One of these optional provisions is 25 U.S.C. §476 which authorizes a tribe, if it so chooses, to organize and adopt a written constitution and bylaws under that section. On the other hand, a tribe may choose to organize and adopt a constitution and bylaws, outside the authority of §476 of the IRA. To aid the Menominee Tribe in making this choice, the next section of this memorandum will discuss the advantages and disadvantages of organizing pursuant to §476 of the IRA.

II. ADVANTAGES AND DISADVANTAGES OF ORGANIZING THE
MENOMINEE GOVERNMENT PURSUANT TO A CONSTITUTION
ADOPTED UNDER SECTION 476 OF THE IRA

A. Advantages.

Again, in order to appreciate the advantages which §476 affords to tribes which organize under it, one must first appreciate the great range of discretionary powers exercised by the BIA over the affairs of Indian tribes prior to the passage of the IRA. Briefly, these powers extended even to the control of decisions affecting tribal self-government. One should also keep in mind that §476 like the other provisions of the IRA was intended to take from the BIA certain of these discretionary powers and to vest those powers back in the Indian tribes.

The following is a brief discussion of the four major advantages afforded by §476 of the IRA to tribes which organize under that section:

1. As a background to a discussion of the first major advantage of §476, it is necessary to realize that the Secretary of the Interior on behalf of the federal government has the power to approve tribal constitutions. By doing so, the Secretary thereby designates the tribal government and tribal officials which the federal government will recognize and deal with as the official tribal representatives. Outside of §476, The Secretary has the discretionary power to unilaterally approve, or revoke his approval, of a tribal constitution, without considering the wishes of the tribe. Clearly, it is important that a tribe have the security of knowing that the Secretary cannot unilaterally withdraw his favor from one tribal government and its tribal officials and bestow it on another, that is without the tribe's consent. Thus, §476 of the IRA states that once a tribal constitution has been adopted by a tribe pursuant to an election conducted under that section, and the Secretary has approved it, the Secretary cannot revoke federal recognition of that tribal constitution, only the tribe at an election conducted in the same manner as when the constitution was adopted can revoke the §476 constitution.
2. Tribes organized outside of §476 must comply with the requirements of 25 U.S.C. §81 when they enter into a contract to employ legal counsel. Section 81 in addition to its several requirements for such

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a contract has also been interpreted as granting the Secretary of the Interior and the Commissioner of Indian Affairs broad powers of approval of all the terms of that contract. In contrast, §476 limits the approval powers of the Secretary and the BIA to "the choice of counsel and fixing of fees," thus, presumably leaving all other terms of the contract to negotiation solely between the tribe and the lawyer.

3. Tribes organized outside §476 theoretically are subject to the power of the Secretary to sell, lease, dispose or encumber tribal land or other tribal assets when the Secretary deems appropriate without seeking tribal consent. In §476, Congress has authorized tribes in their constitutions to prohibit the Secretary from selling, disposing of, leasing, or encumbering tribal lands or other assets without first obtaining the consent of the tribe. Presumably, the tribal constitution could be drafted so as to make such consent extremely difficult to obtain. This particular advantage of §476, however, may be repetitious insofar as the Menominees are concerned because the same prohibition is set forth in the Trust Agreement negotiated between the Menominee Tribe and the Secretary.
4. 25 U.S.C. §472 of the IRA imposes a duty upon the Secretary of the Interior to give preference to "Indians" in employment in the Bureau of Indian Affairs. One crucial question which arises in enforcing §472 is this: Who is an "Indian" within the meaning of §472 and therefore entitled to BIA employment preference? A recent opinion issued early in 1975 by the Associate Solicitor for Indian Affairs of the Department of Interior essentially concludes that insofar as Tribes organized under 25 U.S.C. §476 of the IRA are concerned "Indians" within the meaning of 25 U.S.C. §472 are tribal members as defined by the Tribe in its Constitution. However for all other Tribes, "Indian" within the meaning of 25 U.S.C. §472 are those persons who meet the requirements established by regulations of the Bureau of Indian Affairs even though those requirements may be different from the requirements for membership in the Tribe involved. Currently the BIA requires that a member of a federally recognized tribe not organized under 25 U.S.C. §476 be at least 1/4 degree Indian in order to receive employment preference

under 25 U.S.C. §472. This, of course, is consistent with the membership requirements of most federally recognized Tribes. However, there would be a great problem created for federally recognized tribes not organized under §476 which have members of 1/4 degree blood quantum if the BIA sometime in the future decided to raise the blood quantum requirement to something higher than 1/4 degree. In such an event, all members of tribes who have 1/4 degree Indian blood would not be eligible for BIA employment preference even though the tribe itself recognizes them for all purposes as members of the tribe.

In summary then, members of Tribes organized under §476 of the IRA are entitled to BIA employment preference under 25 U.S.C. §472 simply because they are members of the Tribe. But members of tribes not organized under §476 must meet the definitional requirements established by the BIA as to who is an Indian and thus entitled to BIA employment preference, even if such requirements are different from membership requirements of the tribe.

Disadvantages.

Section 476 does not appear to impose upon tribes which organize under it any additional disadvantages vis a vis the federal government, in terms of tribal decisions being subject to Secretarial and BIA approval powers, than is borne by tribes generally under federal law based upon the trust relationship between the United States and Indian tribes. Much of the disillusionment with tribal constitutions adopted under §476 appears to stem, not from anything inherent in the section itself, but from the fact that many tribes adopted constitutions which contained provisions granting the Secretary power to approve virtually all major tribal decisions. Many tribal constitutions adopted pursuant to §476 appear to have been based upon the same model constitution, probably BIA drafted.

III. REQUIREMENTS FOR ADOPTION AND AMENDMENT OF IRA CONSTITUTIONS AND BYLAWS

The only requirement imposed on Tribes who organize, that is, adopt a Constitution and Bylaws, under 25 U.S.C. §476 of the IRA is that the manner of adopting and amending the Constitution and Bylaws will be subject to federal law and regulations, and not tribal law. 25 U.S.C. §478 a of the IRA states that in "adopting a constitution and bylaws or amendments thereto" under §476 "the vote of a majority of those actually voting shall be necessary and sufficient to effectuate such adoption....: Provided, however, that in each instance the total vote cast shall not be less than 30 percentum of those entitled to vote."

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Thus the election held to adopt a §476 constitution and bylaws a federal election governed also by any regulations issued by the Secretary of the Interior. Similarly, any election held to amend a §476 constitution and bylaws will be a federal election subject to the Secretary's regulations.

The adoption of the Menominee's tribal constitution is, of course, governed by Section 5 (d) of the Menominee Restoration Act and mandates a federal election be held to adopt the Menominee Tribal Constitution. The requirements for adoption of the Menominee Constitution are exactly the same as those required to adopt a §476 constitution under the IRA.

Thus insofar as the Menominee Tribe is concerned, the only requirement imposed by the IRA is the following: Amendments to the Menominee Constitution would be adopted at a secretarial election by a vote of a majority of eligible tribal voters voting, if at least thirty percent (30%) of all eligible tribal voters vote.

IV. CONCLUSION

Briefly then, there are four advantages to organizing a tribal government under a constitution adopted pursuant to §476 of the IRA; first, it affords a congressionally approved method of electing a tribal constitution and once a tribe has so elected a constitution, the Secretary is prohibited from revoking it; only the tribe can revoke it through the same election process; second, with the exception of the choice of attorney and the fee charged, all other terms of tribal contracts with attorneys are not subject to the approval of the Secretary; third, the Secretary is prohibited from selling, encumbering, leasing or disposing of tribal lands and assets without first obtaining the consent of the tribe; and fourth, members of the Tribe are entitled to BIA employment preference, notwithstanding the BIA's definition of who is an "Indian" and thus entitled to BIA employment preference.

The question which arises from a consideration of the above listed advantages is this: Are the above advantages offered by §476 sufficiently important to persuade the Menominee Tribe to choose to organize pursuant to §476? At this point in the history of the relationship between Indian tribes and the federal government - which might be termed the Indian self-determination period - it is very unlikely that the Secretary of Interior would unilaterally exercise his broad discretionary powers over tribal self-government with the same abandon he did several years ago. However, perhaps §476 should be viewed as an additional provision in an insurance policy designed to afford the tribe some protection against possible future attempts at federal encroachment on tribal self-government. As the Menominee Tribe well knows, federal Indian policy is, and has historically been, subject to sudden and sometimes disastrous changes caused by the shifting winds of federal politics.

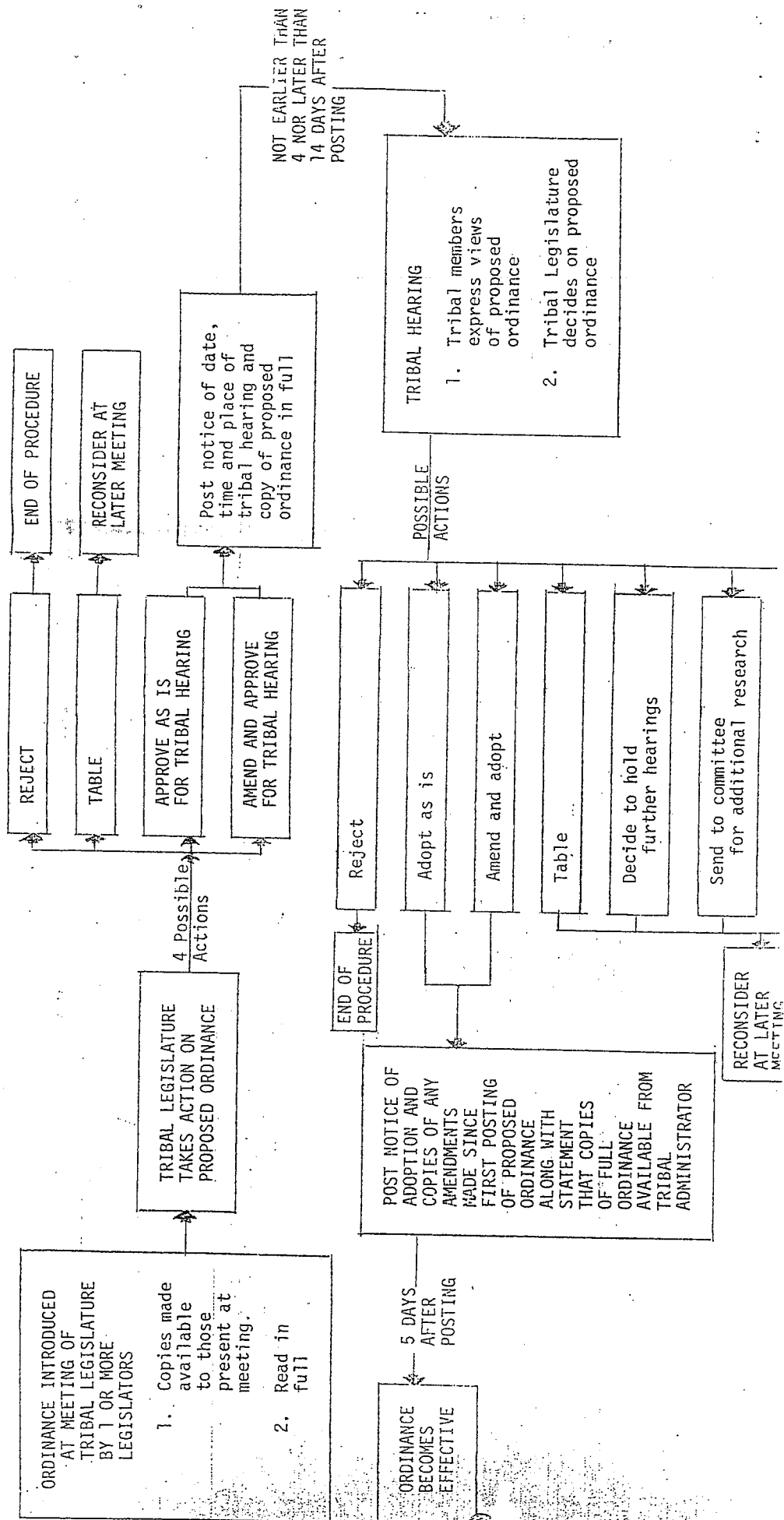
§476. Organization of Indian tribes; constitution and bylaws; special election

Any Indian tribe, or tribes, residing on the same reservation all have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, which shall become effective when ratified by a majority vote of the adult members of the tribe, or of the adult Indians residing on such reservation, as the case may be, at a special election authorized and called by the Secretary of the Interior under such rules and regulations as he may prescribe. Such constitution and bylaws, when ratified as aforesaid and approved by the Secretary of the Interior, shall be revocable by an election open to the same voters and conducted in the same manner as the original constitution and bylaws.

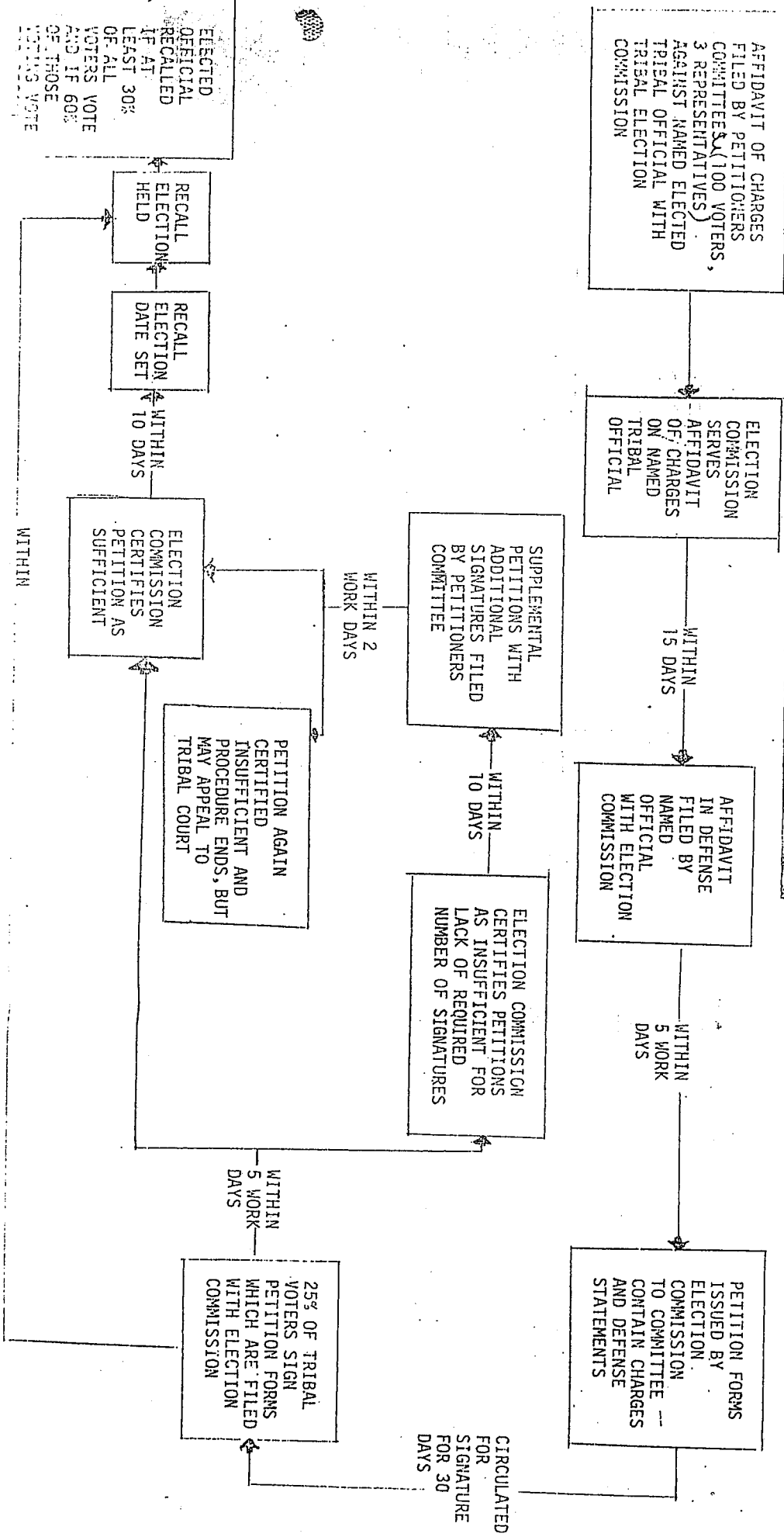
In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following right and powers: To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local Governments. The Secretary of the Interior shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Bureau of the Budget and the Congress. June 18, 1934, c. 576, §16, 48 stat. 987.

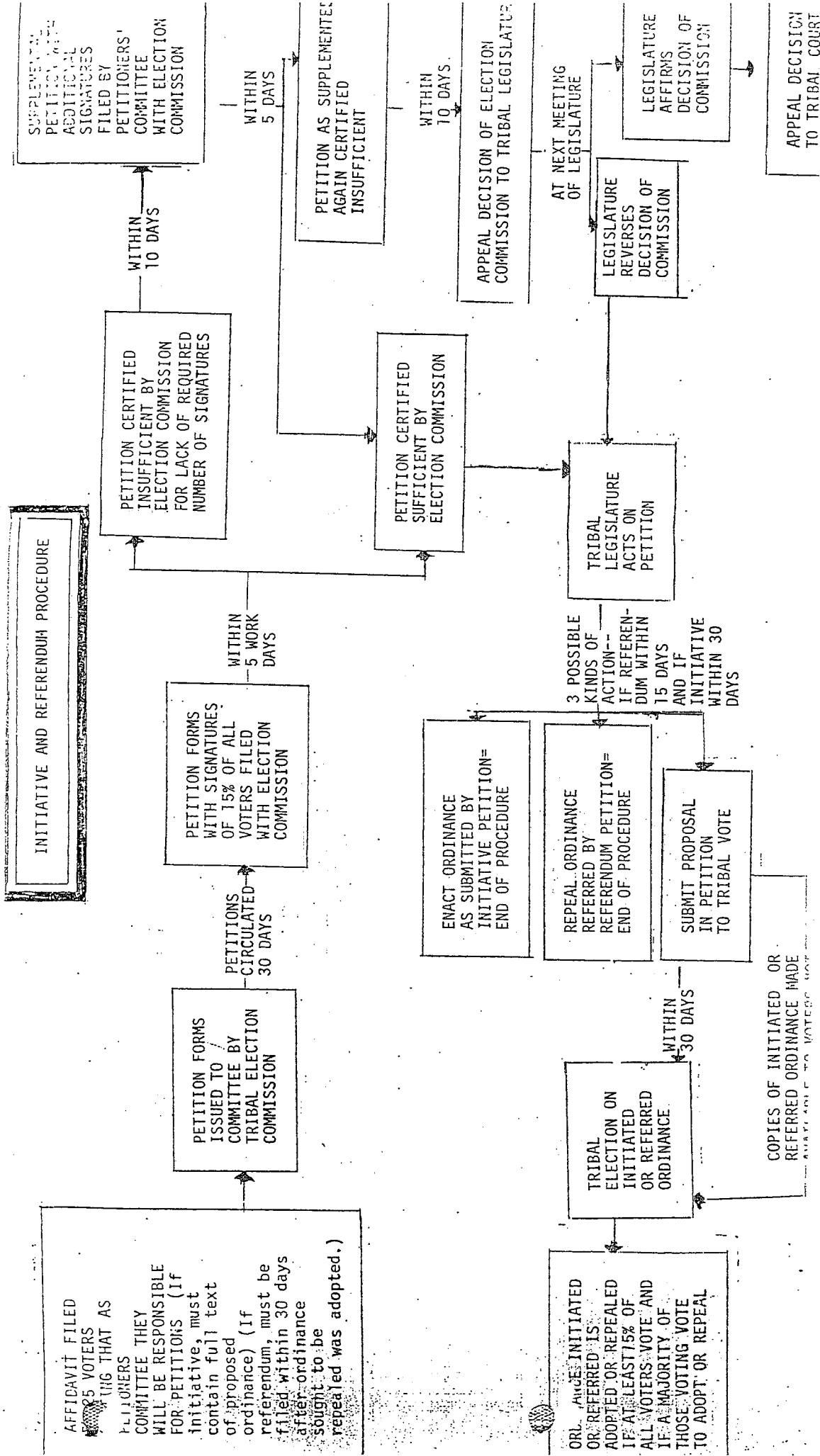
- (5) Any arrangement permitting non-tribal members to use tribal lands or interests in land shall be subject to the approval of the Tribe by majority vote of tribal members voting, and to the approval of the Secretary of the Interior.

HOW AN ORDINANCE IS ADOPTED BY THE TRIBAL LEGISLATURE



RECALL PROCEDURE





POWERS OF THE GOVERNING BODY

I. CONSIDERATIONS

The major purpose for this article is to define those tribal powers which the governing body is authorized to exercise. Thus, the major question to be answered with regard to this article is this: what scope of tribal powers should the governing body be authorized to exercise? There are two alternative answers to this question: First, the governing body may be authorized to exercise any and all power now vested in, or which in the future may be vested in, the Tribe, except as limited by the tribal constitution. Second, the governing body may be authorized to exercise only certain enumerated tribal powers with all other powers, including future tribal powers, reserved to the members of the Tribe. The tribal members may, by future constitutional amendments, authorize the governing body to exercise certain of these reserved powers.

A. Advantages and Disadvantages of the First Alternative: A General Grant of Powers.

The major advantage of the first approach is that it allows the tribal policy makers, i.e., the governing body, a broad choice of powers which they may use to serve the needs of the tribal members. It allows the governing body to be flexible and innovative in responding to present needs of the tribe. And particularly, it allows the council to respond quickly to future needs, unforeseeable at the time the constitution is drafted, without having to go through the difficulty of amending the constitution in order to obtain a grant of power allowing the council to act.

If the first approach is chosen, however, care must be taken to draft into the constitution sufficient checks and balances to make it extremely difficult for the governing body to abuse its grant of powers. There are several protections against the abuse of power by public officials which can be drafted into the Constitution. Unscrupulous public officials may be removed from office by vote of the tribal members under the recall procedure. Tribal councilmen may also be removed from office by their fellow councilmen for abuse of power, subject perhaps to a referendum of the tribal members. Likewise, the judges of the court may be removed by the tribal council for abuse of power. Certain kinds of tribal council actions can be required to be submitted to a referendum vote before such action can be effective. Tribal members can be authorized to initiate a referendum on any council action. The chief executive (if any) can be granted the power to veto acts of the council, and the council can be granted approval power over some or all acts of the chief executive (if any). In addition, the ability to totally exercise tribal powers can be divided among two or more branches of government. Such a division operates to prevent the most far reaching kind of abuse of power which can occur when tribal officials

have the authority not only to make laws, but also to enforce them, and to decide themselves whether their actions are in accordance with the tribal constitution. Finally, specific limitations, upon the general grant of power to the council, can be drafted into the constitution-provisions which specifically forbid the council from taking certain actions, at least without a tribal referendum. Such a provision might, for example, prohibit the council from selling tribal land without a vote of the tribe approving such a sale.

B. Advantages and Disadvantages of the Second Alternative: A Grant of Enumerated Powers.

It is generally stated that the major advantage of this approach is that it limits the scope of powers granted to the governing body, and by so doing, it limits the scope of opportunities for tribal officials to abuse power. However, this advantage appears to be largely illusory in light of the fact that most tribal constitutions have enumerated powers, as has the United States Constitution, yet abuses of power have still occurred or at least been charged. Perhaps the ultimate point is that a grant of power no matter how limited is still a grant of power and if the person authorized to exercise that power is unscrupulous and has the opportunity and motivation that grant of power will likely be abused. As discussed in more detail in section A above, there are various ways to lessen the possibility of abuses of power by drafting into the constitution provisions designed to provide checks upon the exercise of tribal power by tribal officials.

The major disadvantage of the enumerated powers approach is that those powers not granted to the governing body of the Tribe cannot, so long as they are reserved, be of any benefit to the Tribe. A tribal power is useless unless someone is authorized to exercise it for the tribe's benefit. A second disadvantage is that enumerated powers will not include powers which may be returned to tribes in the future by the federal government. For example, in P.L. 280, full civil and criminal jurisdiction may be returned to tribes either by retrocession or by federal legislation. If the power provisions of the tribal constitutions are not broad enough to authorize the tribal council to exercise the new tribal powers, the constitutions must be amended to do so. This is usually a time consuming and difficult job. It may in fact pose an obstacle to a speedy return to the tribe of full jurisdiction. Finally, enumerating powers creates the risk that some necessary or desirable powers will be overlooked or that unforeseeable tribal problems will arise in the future which will require that the council have certain powers other than those enumerated to deal with the situation. Again, amending the Constitution to grant the council those powers will be time consuming and difficult.

C. Conclusion.

The tribe would be well advised to draft a powers article based upon the first approach, that is, to authorize the governing body to

exercise any and all tribal powers including powers which may be vested in the tribe in the future by federal law. In conjunction with this general grant, other protective provisions such as suggested previously would be drafted.

II. SUGGESTED PROVISIONS: POWERS OF THE TRIBAL GOVERNING BODY

A. One Branch.

If the governing body is not divided into branches with separate powers, the following provisions is suggested:

POWERS OF THE TRIBAL COUNCIL

All powers of the Tribe shall be vested in a tribal council, including such powers as may in the future be granted to the Tribe by federal law, except as limited by this Constitution. [A description of the composition, qualifications, duties, etc., of the tribal council may be included here or in a separate article.]

B. Two Separate Branches.

If the governing body consists of two separate branches - tribal court and tribal council with no separate executive branch, the following provisions are suggested:

POWERS OF THE TRIBAL COUNCIL

All legislative and executive powers of the Tribe shall be vested in a tribal council, including such powers as may in the future be granted to the Tribe by federal law, except as limited by this constitution. [A description of the composition and duties of the council may be included here or put in a separate article.]

POWERS OF THE TRIBAL COURT

All judicial powers of the Tribe shall be vested in a tribal judiciary, including such powers as may in the future be granted to the Tribe by federal law, except as limited by this constitution. [A description of the composition and duties of the tribal court may be included here or put in a separate article.]

C. Three Branches.

If the governing body consists of three separate branches - tribal court, tribal council and tribal executive, the following provisions are suggested:

POWERS OF THE TRIBAL COUNCIL

All legislative powers of the Tribe shall be vested in a tribal council, including such powers as may in the future be granted to the tribe by federal law, except as limited by this constitution. [A description of the composition and duties of the council may be included here or put in a separate article.]

POWERS OF THE TRIBAL EXECUTIVE

The executive power shall be vested in a tribal chairman of the Tribe, except as limited by this constitution. [A description of the duties, qualifications, etc., of the chairman may be included here or in separate article.]

POWERS OF THE TRIBAL COURT

All judicial powers of the tribe shall be vested in a tribal judiciary, including such powers as may in the future be granted to the tribe by federal law, except as limited by this constitution. [A description of the composition and duties of the tribal court may be included here or put in a separate article.]

III. EXAMPLES OF ARTICLES MAKING A GENERAL GRANT OF POWERS TO GOVERNING BODIES

Example 1

Section 3.1 - Council Powers:

The legislative affairs of the City shall be vested in a Council consisting of seven (7) Councilmen. The Council shall constitute the governing body of the City, and shall have all municipal powers including, without limitation, all powers as conferred by general law except as limited by this Charter, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof.

Document 22

Example 2

Section 4.1 - The Council:

The legislative affairs of the City shall be vested in a Council consisting of seven councilmen all of whom shall be nominated and elected at large from the City.

Section 4.2 - Powers of Council:

The Council shall have all municipal powers, including without limitation, all powers as conferred by general law except as limited by this Charter. The Council, or a committee thereof duly authorized by it, shall have power to investigate the official acts and conduct of any officers of the City, and may compel the attendance and testimony of witnesses and the production of books and documents.

Document 23

IV. EXAMPLES OF ARTICLES MAKING GRANTS OF ENUMERATED POWERS TO GOVERNING BODIES

Example 1

SECTION 1. The Council shall have the following powers, subject to any limitation imposed by the statutes or by the Constitution of the United States.

(a) To negotiate with federal, state and local governments on all matters affecting the welfare of the members of this organization.

(b) To employ legal counsel, the choice of counsel and the fixing of fees to be subject to the approval of the Secretary of the Interior.

(c) To veto the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets.

(d) To adopt ordinances, which will be subject to approval by the Secretary of the Interior, providing for the use of tribal lands and the removal from the reservation of non-members whose presence or activities may be deemed injurious to the welfare of the tribe.

(e) To advise with representatives of the Department with regard to all appropriation estimates or Federal projects for the benefit of the reservation prior to admission of such estimates to the Bureau of the Budget and the Congress.

(f) To regulate its own procedure, to appoint boards or commissions, and to delegate to such subordinate agencies such powers as may be necessary in the performance of the duties assigned to them, reserving the right to review any action taken by virtue of such delegated power.

SEC. 2. The St. Croix Council may exercise, subject to popular referendum, such powers as may in the future be delegated to the St. Croix Chippewa Indians of Wisconsin by the Secretary

of the Interior, or by any duly authorized official or agency or the Government.

Document 5

Example 2

SECTION 1. Enumerated powers. - The Tribal Council shall exercise the following powers, subject to any limitations imposed by the Constitution or statutes of the United States, and subject further to all express restrictions upon such powers contained in this Constitution and the attached By-laws:

(a) To negotiate with the Federal, State, and local governments on behalf of the Band, and to advise and consult with the representatives of the Interior Department on all activities of the Department that may affect the Bad River Band of the Lake Superior Tribe of Chippewa Indians.

(b) To employ counsel for the protection and advancement of the rights of the Band and its members, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.

(c) To approve or veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands or other tribal assets, which may be authorized or executed by the Secretary of the Interior, the Commissioner of Indian Affairs, or any other official or agency of government, provided that no tribal lands shall ever be sold or encumbered, or leased for a period exceeding 10 years, except for governmental purposes, except that leases for mining purposes may be made for such longer periods as may be authorized by law.

(d) To advise with the Secretary of the Interior with regard to all appropriation estimates or federal projects for the benefit of the Band prior to the submission of such estimates to the Bureau of the Budget and to Congress.

(e) To make assignments of tribal land to members of the Band in conformity with Article VIII of this Constitution.

(f) To manage all economic affairs and enterprises of the Band in accordance with the terms of the charter which may be issued to the Band by the Secretary of the Interior.

(g) To appropriate for public purposes of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin available Tribal Council funds, and, subject to review by the Secretary of the Interior, any other available tribal funds.

(h) To levy taxes upon members of the Band and to require the performance of labor in lieu thereof, and to levy taxes or license fees, subject to review by the Secretary of the Interior, upon non-members doing business within the reservation: Provided, however, That any such assessment upon members of the Band shall have the approval of a majority of the voters of the Band at a special election at which at least 30 percent of the eligible voters of the Band shall vote.

(i) To purchase lands of members of the Band for public purposes, under condemnation proceedings in courts of competent jurisdiction.

(j) To safeguard and promote the peace, safety, morals, and general welfare of the Band by regulating conduct of trade and the use and disposition of property upon the reservation: Provided, That any ordinance directly affecting non-members of the Band shall be subject to review by the Secretary of the Interior.

(k) To regulate the inheritance of property, real and personal, other than allotted lands, within the territory of the Bad River Reservation, subject to review by the Secretary of the Interior.

(l) To regulate the manner of making nominations and holding elections for tribal officers.

(m) To adopt resolutions regulating the procedure of the Tribal Council itself and of other tribal agencies and tribal officials.

(n) To encourage and foster the arts, crafts, traditions, culture, wildlife, and natural resources of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin.

(o) To charter subordinate organizations for economic purposes, and to regulate the activities of cooperative associations of members of the Bad River Band of the Lake Superior Tribe of Chippewa Indians by ordinance, provided that any such ordinance shall be subject to review by the Secretary of the Interior.

(p) To select delegates to sit in a National Council of the entire Chippewa Nation.

(q) To promulgate and enforce ordinances, which shall be subject to review by the Secretary of the Interior, governing the conduct of members of the Bad River Band, and of non-member Indians residing on the reservation, providing for the maintenance of law and order, and providing for the administration of justice by establishing an Indian Court and defining its duties and powers.

(r) To consolidate inherited land holdings by purchase, exchange, transfer, gift, or voluntary relinquishment, including the power to reassign same in the public interest.

(s) To exclude from the restricted lands of the reservation, persons not legally entitled to reside thereon, under ordinances which shall be subject to review by the Secretary of the Interior.

(t) To regulate hunting and fishing on tribal and restricted lands.

(u) To delegate to subordinate boards, or tribal officials, or to cooperative associations, that are open to all members of the tribe, any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.

SEC. 3. Future powers. - The Tribal Council may exercise such further powers as may in the future be delegated to the Band by the Secretary of the Interior, or by any duly authorized official or agency of the State of Federal Government.

SEC. 4. Reserved powers. - Any rights and powers heretofore vested in the Bad River Band, but not expressly referred to in this Constitution, shall not be abridged by this Article, but may be exercised by the people of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin through the adoption of appropriate By-laws and Constitutional Amendments.

Document 1